CITY OF NEW ORLEANS

CHIEF ADMINISTRATIVE OFFICE

POLICY MEMORANDUM NO. 24 (R)

March 28, 2008

To: All Executive Branch Departments, Boards, and Commissions

From: Brenda G. Hatfield, Ph.D., Chief Administrative Officer

Subject: SERVICES AND MOVABLE PROPERTY PROCUREMENTS AND PURCHASES

Attachment: (a) Informal Bid Quote Form

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1. **CONTEXT AND PURPOSE:**

- A. City Charter section 4-1301(1) (g) requires the Finance Department to "Contract for services to be rendered by independent contractors and purchase materials, supplies and equipment." City Charter section 6-301 assigns movable property procurement responsibility to the Finance Department.
- B. This policy memorandum states administrative guidance for such functions, detailing policies and procedures for Executive Branch Departments, Boards and Commissions to obtain nonprofessional services and movable property through procured means administered by the Finance Department. This policy memorandum does not apply to public works, immovable property, or professional services procurements. It replaces Policy Memorandum 24R, dated February 6, 1997.
- 2. <u>APPLICATION:</u> This policy memorandum applies to all Executive Branch Departments, Boards and Commissions ("Departments").

3. **DEFINITIONS**:

- A. <u>Advertising:</u> The publication required by La. Revised Statute 38:2212.1B and otherwise. Publication requirements provide minimum response periods.
- B. <u>Contracting:</u> Documenting the transaction and agreement by formal contract. The City must complete contracts when required by law or otherwise when simple invoices and purchase orders do not satisfy needs.
- C. <u>Electronic Bidding:</u> The use of an online system to advertise and receive bids electronically through the City website purchasing portal or via fax or email.
- D. <u>Fixed-Price Agreement/Contract:</u> An agreement getting the specified thing or service at the bid price. (Contrast "Requirements/Price Protection" Agreement/Contract" below)
- E. Funding: Setting aside appropriated funds in the City financial purchasing system.
- F. <u>General Services Administration (GSA) Schedule Procurements:</u> The use of GSA schedules by means established by the Louisiana Division of Administration, Central Purchasing Agency.
- G. <u>Movables:</u> All property that is not immovable property. Movables include materials, supplies, equipment, vehicles, software, communications devices and systems, unattached fixtures, and similar items.
- H. <u>Piggyback or Intergovernmental Procurement:</u> A procurement completed by applying a competitive bid result obtained by another Louisiana public entity. The terms and conditions of the original procurement will apply in the City's use.

- I. <u>Procurement:</u> The process of obtaining goods and services for City use, application, or consumption. Procurements generally use purchases, services agreements, leases, rental agreements, lease-purchases, and exchanges.
- J. <u>Procuring Official:</u> A City official responsible and authorized to complete City procurements. In Finance Department, the Purchasing Administrator is a Procuring Official. The Procuring Official for procurements completed by delegated authority is Department Director.
- K. <u>Public Contract:</u> A contract let by the State of Louisiana or a political subdivision of the State of Louisiana.
- L. <u>Purchase Order:</u> A written authority to order and obtain goods and services. It encumbers funds in the City's financial purchasing system.
- M. <u>Requirements/Price Protection Agreement/Contract:</u> An agreement committing the contractor or vendor to supply the things or services at City request for the bid price during the agreement term. These are essentially options contracts and are distinguished from Fixed Price contracts (see above).
- N. <u>Requisition:</u> A "pre-encumbrance." A request for goods and services and the authority to commit funds to cover the purchase. The means by which a Department dedicates appropriated funds to a proposed procurement. A requisition does not encumber funds.
- O. <u>Responsible Bidder:</u> A bidder capable in the specified work. A bidder not disqualified from selection because of dishonesty, carelessness, incompetence, unreliability or other performance-based factor.
- P. <u>Responsive Bid:</u> A bid submitted according to bid instructions. Responsive bids compete on an equal basis with other complying bids. They enable a fair and equal price comparison.
- Q. <u>Unique and Non-Competitive Articles:</u> (See Charter Section 6-308[5]). Articles and services for which the competitive market does not operate efficiently. Examples include 1) a commissioned artwork, design, event. or performance not subject to accurate specification; 2) a necessary product or service available from only a single source; and 3) a necessary product or service in a severely distorted market, such as prevailed in the City following Hurricane Katrina in 2005.

4. POLICY:

A. <u>Procurement by Competitive Bid:</u> Except as provided below, and pursuant to Charter Sect. 6-308(5), the City will procure movables and services by competitive bid, with the transaction completed with or the contract awarded to the lowest responsible bidder. The competitive bid requirement applies to all means, including purchases, lease-purchases, exchanges, and otherwise, by which the City obtains needed movables and non-professional services. No threshold or exemption amounts apply. Movables and services available by "Piggyback" or

"Intergovernmental Procurement" from an existing public contract are previously procured and do not require new competition. The City has no "personal services" procurement authority.

- 1) "Unique and non-competitive articles" are exempt from competition requirements (Charter section 6-308[5]).
- 2) Charter Section 6-301(2)(b) permits the Finance Department to procure movable property without competitive bid, "... in cases where competitive bids are not required by state or municipal law."
- B. <u>Procurement Responsibility:</u> Except as provided below for delegated procurement authority, City Departments will obtain movables and services <u>only</u> through means established and maintained by the Department of Finance. Departments will not solicit, invite, receive, accept, sign or approve bids, proposals, contracts, leases, or change orders for City movables or services acquisitions. City Departments may give receipts for movables deliveries.
- C. <u>Committed Funding:</u> Pursuant to City Code Sect. 70-421, DEPARTMENTS WILL NOT ORDE REQUEST, OR RECEIVE ANY MOVABLE PROPERTY OR SERVICE WITHOUT FUNDING COMMITTED IN ADVANCE BY SIGNED PURCHASE ORDER ISSUED BY THE PURCHASING BUREAU. Such unfunded transactions are unlawful, and the City Code prohibits the City to issue related payment. Departments will fund movables and services acquisitions in advance. They will fund acquisitions obtained through Requirements/Price Protection agreements in advance according to projected use. In all cases where procurements project particular transactions, the requesting Department will encumber needed funds in the purpose before the City commits to the transaction (s).

5. PROCEDURE:

- A. <u>Procurement Frequency:</u> To the maximum practical extent, the City will obtain needed goods and services by regular annual consolidated procurements for City-wide needs. The City may obtain particular goods and services by approved special procurements at need as provided below.
 - 1) Regular Annual Consolidated Procurements:
 - As needed, the Purchasing Bureau will request City Departments to project movables and non-professional services requirements including needs against possible emergencies. City Departments will provide complete and timely responses, including estimated costs.
 - b) Based on consolidated responses, the Purchasing• Bureau will propose particular related procurements or other means to serve the described needs and request the Chief Administrative Officer's approval. The request will estimate the cost per year for each proposed procurement.

- c) Using the procurement methods provided below, the Department of Finance Purchasing Bureau will procure or identify means to obtain the approved needed movables and services, extending existing contracts or securing new Fixed Price or Requirements/Price Protection contracts or rental agreements where required. Requesting Departments will supply specifications and state special requirements if needed.
- 2) <u>Special Procurements At-Need:</u> Procuring officials may complete at-need procurements valued \$1,000 or less on Departmental authority. Other at-need procurements require competition in all cases except as provided below.

B. Procurement Method

- 1) <u>Competitive:</u> Except for the non-competitive or otherwise exempt procurements authorized below, procuring officials will obtain needed movables and non-professional services by, competitive new procurement or Piggyback or Intergovernmental Procurement.
 - a) New Procurements: For movables and services not available through BuySpeed or another Louisiana public entity, the Procuring Official will prepare a detailed procurement request for approval by the Chief Administrative Officer. The request for approval will describe and justify the need, state how the procurement will satisfy the need, estimate the cost or annual expense (value), and identify the needed procurement type (purchase, lease, lease purchase, rental agreement, exchange, services agreement, requirements/price protection agreement). The procuring official will complete the approved procurement according to the competitive bid procedure described below

b) Piggyback or Intergovernmental Procurement.

- i. To procure movables and services already competitively procured by another Louisiana public entity, the Department will prepare a detailed procurement request for approval by the Purchasing Bureau. The request will describe and justify the need, state how the procurement would satisfy the need, and estimate the cost or annual expense (value). The request will also describe the other public competitive procurement proposed for use to satisfy the need.
- ii. For approved requests, the Department will supply complete procurement documents to the Purchasing Bureau. Documents will include copies of the other Louisiana public entity's solicitation, bid tabulation, and award letter and also the selected bidder's written consent to contract with the City on the same terms and conditions.

- iii. The Purchasing Bureau will complete arrangements for the needed acquisition, including obtaining a City contract where needed, and will inform the requesting Department when the procurement is in place and available in BuySpeed for use.
- iv. Note: Multiple award procurements are not competitively obtained and are not eligible for use by Piggyback or Intergovernmental Procurement.
- 2) Non-Competitive: City Charter Section 6-308(5) exempts "... the purchase of unique and noncompetitive articles" from competition requirements. Charter Section 6-301(2)(b) permits City movable property procurements without competition "... in cases where competitive bids are not required by state or municipal law." As developed below, procuring officials may apply non-competitive procurement authority to complete I) unique and noncompetitive procurements, 2) small movables procurements, 3) certain procurements through the federal General Services Administration ("'GSA") supply schedules adopted by state contract, and 4) other procurements where competitive bids are not required by state or municipal law.
 - a) Unique and noncompetitive procurements:_To procure unique and noncompetitive articles without competition, Procuring Officials will prepare a detailed procurement request for approval by the Chief Administrative Officer. Requests for approval will describe and justify the need, state how the procurement will satisfy the need, state any urgency, report the lack of a competitive market for the need, state the cost or annual expense (value), and identify the needed procurement type (purchase, lease, lease purchase, rental agreement, exchange, services agreement, requirements/price protection agreement). Approval requests will contain complete movables or service specifications and needed contract terms. For approved procurements without formal contract, Procuring Officials will complete the transaction by purchase order obtained from the Purchasing Bureau. Approved procurements requiring contracts will obtain ordinary contract approvals.
 - b) One-Time Small Movables Procurements: Procuring Officials may procure materials and supplies valued \$1,000 or less on a one-time basis without competition. For procurements without formal contract, they will complete the transaction on Departmental authority by purchase order obtained from the Purchasing Bureau. Contracted transactions will obtain ordinary contract approvals. Departments will not divide transactions to enable non-competitive procurement means.
 - c) GSA Schedule Procurements: Procuring officials may procure materials, supplies, and equipment listed on GSA schedules through and strictly according to means established by the Louisiana Division of Administration, Central Purchasing Agency. Procuring officials will not obtain needed movables directly from GSA schedule vendors.

- d) Procuring Officials may otherwise procure movables where competitive bids are not required by state or municipal law according to requirements adopted by the Purchasing Bureau.
- C. <u>Delegated Small Procurement Authority:</u> The Director of Finance may delegate authority to procure movables and non-professional services valued \$20,000 or less to City Departments.
 - 1) The delegated authority will apply only to movables purchases and non-professional services procurements and only to such purchases and services acquisitions completed without required formal advertising, bidding, or contract.
 - 2) Procurements by delegated authority will comply with this Policy Memorandum.
 - 3) Departments exercising delegated procurement authority will obtain a discrete proposal number from the Purchasing Bureau via an approved requisition for each procurement.
 - 4) City Departments will not divide purchases or services acquisitions to invoke delegated purchase authority.
 - 5) The Director of Finance may withdraw or restore delegated purchase or services acquisition authority at will.
 - 6) For small purchases and services acquisitions valued \$1,000.00 or less, the delegated authority may use the Official City Procurement Card as a method of payment according to Procurement Card Policies and Procedures. Acquisitions using the Procurement Card must satisfy competition requirements.

D. Competitive Bid Procedures

- 1) Requesting and Obtaining Bids:
 - a) <u>Specifications:</u> Procuring officials will seek bids for movables and non-professional services according to complete written specifications prepared and approved by the requesting department. Specifications will describe the needed product or service in sufficient detail to enable bidders to bid on the same requirement. Services specifications will state a compensation system, any insurance or bonding requirements, and any needed performance measures. Being the detailed movables or services description, specifications should contain no bid instructions or selection explanation. General or vague descriptions are subject to misunderstanding and are not acceptable to support City procurements or specify City needs. Movables specifications will accept equivalent products. Knowledgeable Departments will support Purchasing Bureau efforts to develop and approve specifications.
 - b) <u>Bid Invitation:</u> Procuring officials will prepare and issue written bid invitations in all movables and non-professional services procurements valued \$20,000 or more per year.

i. Bid invitations will:

- a. Identify the procurement by summarized requirement description, proposal number, sponsoring City Department and issue date;
- State or refer interested persons to complete bid instructions, including, without limitation, submissions due date, time, and place, and required bid package contents;
- c. Contain a bid form tailored to the particular need and report and explain the procedure used to identify the lowest bid;
- d. Attach complete movables or services specifications, or state where bidders may obtain them; and
- e. Generally describe any post-selection contracting requirements. Bid Invitations will contain or refer interested persons to any other applicable information or requirements, such as required contract provisions and supplemental bid instructions.
- ii. Special Note: Procuring officials must craft clear, concise, and consolidated bid instructions. <u>Instructions should contain no unnecessary requirements.</u> Bid forms should project plain selection procedures.
- c) <u>Publication</u>: The Purchasing Bureau will publicize all movables and non-professional services procurements valued \$20,000 or more per year.
 - i. The publication will post complete bid invitation and specifications to the City procurement website at least three weeks before the bid opening. The website publication should continue pending the bid opening. The website publication will invite bids, state all bid instructions and submission requirements, and specify the needed work or service.
 - ii. The procurement publication will advertise at least two descriptive notices in a local newspaper. The notices will direct interested persons to the City website for complete information. The first newspaper advertisement will not appear on a Saturday, Sunday, or legal holiday. It will appear at least fifteen days before the bid opening.

d) Quotes and Bids:

i. Informal Competitive Bid Procedure: Procuring Officials may apply an informal competitive bid procedure to complete movables and non-professional services procurements valued less than \$20,000 per year. In such cases, Procuring Officials will obtain at least three quotations to the specified need from the City's BuySpeed

online purchasing system or by telephone, fax, email, or on-line submission. Procuring officials will document such procurement efforts using the BuySpeed tabulation or the attached Informal Bid Quote Form. They will confirm the accepted quote and all telephone quotes in writing and document them to the procurement file. They will document the file to justify any decision not to accept the lowest received quote.

- a. In procurements valued less than \$10,000 per year Procuring Officials may accept a single quotation where reasonable and documented efforts have not produced the required response.
- Local Preference: For procurements valued less than \$10,000 per year,
 Procuring Officials will endeavor to obtain the needed quotations from persons or businesses resident in New Orleans.
- ii. Formal Competitive Bid Procedure: The Purchasing Bureau will conduct formal bid competitions for new procurements valued \$20,000 or more per year. It will require and receive written bid submissions specific to the stated need, except that the Purchasing Bureau may accept electronic bids on-line according to procedures established by the City.
- e) The following table shows competitive bid procedures in different procurement categories:

	Movables			Non-Professional Services	
	Less than \$10K	\$10K to \$19,999	\$20K & more	Less than \$20K	\$20K & more
Written	Required	Required	Required	Required	Required
Specification					
Bid Invitation	Not Required	Not Required	Required	Not Required	Required
& Advertising					
Competitive	Informal ≥ 3	Informal ≥ 3	Formal	Informal ≥ 3	Formal
Bids	phone/fax/email	phone/fax/email		phone/fax/email	

(Shaded: see La. Revised Statute 38:2212.1)

2) Selection and Award:

a) Responses to City Bid Solicitations: Procuring officials will receive and carefully account for all responses to formal and informal bid solicitations. They will carefully safeguard submissions, and related documents and information pending, during, and after bid openings and through any award and contract execution. They will open no sealed submissions in formal competitions until the bid opening. Procuring officials will mark all responses and submissions to confirm the date and time received.

- b) Bid Opening: The Purchasing Bureau will conduct a formal, public bid opening for movables and non-professional services procurements valued \$20,000 or more per year. Bid openings will comply with bid instructions, specifically including date and time deadlines. It will permit only designated City employees to handle bid documents at bid openings.
- c) Responsiveness Review and Bid Tabulation: Following the time and date stated for the receipt of bids, the Purchasing Bureau will carefully examine bid submissions for responsiveness to bid instructions and requirements. It will prepare a signed written bid tabulation and responsiveness review, reporting all bids timely received, bid amounts, and responsiveness failures, and identifying the lowest responsive bidder.
 - i. For solicitations valued less than \$20,000 per year, the Informal Bid Quote Form or on-line Open Market Requisition Quote will serve as bid tabulation.
 - ii. Waiver: Except as follows, Procuring Officials may waive non-substantive failures to satisfy bid instructions. "Non-substantive failures" are departures from bid instructions that do not compromise a fair and equal price comparison. Officials may NOT waive deviations from bid instructions in bid submissions for materials or supplies purchases valued \$20,000 or more. Procuring officials may not waive substantive failures to satisfy bid instructions. The Bid tabulation and Responsiveness Review will report and explain all waived departures from bid instructions.
- d) <u>Selection:</u> Procuring officials will submit the bid tabulation and responsiveness review for review and approval by the sponsoring department.
 - i. If the Department Director disapproves the initial selection, he or she will supply to the Purchasing Bureau a written, merit-based disqualification and identify the next-lowest approved responsive bidder to serve the specified need. If the Department Director cancels the solicitation, he or she will supply a written, merit-based justification.
 - ii. Procuring Officials will communicate the selection or cancellation. They will send an award letter to the selected bidder. They will report responsiveness failures or disqualifications to rejected bidders. Notice of selection results on the City's Purchasing website is sufficient general communication of the selection or cancellation.
- E. <u>Contracts and Entry into Use:</u> Where not otherwise required, the City will secure formal contracts for City movables and services procurements according to complexity, duration and business need. For example, a purchase order will serve for a single, simple purchase without additional terms or conditions. A purchase with multiple special delivery requirements or unique specifications will usually require a contract. Requirements/Price Protection arrangements

require written contracts. Departments will consult with the City Attorney for guidance on contracting questions. CAO Policy Memorandum 42R requires the City to complete written contracts for emergency purchases where the cost exceeds \$5,000.

- 1) If the selection does not require a contract, the Purchasing Bureau will enter the selection into the City's procurement system and render it available for use.
- 2) If the selection requires a contract, the Purchasing Bureau will submit the procurement package to Law Department for contract preparation. The package will include copies of:
 - a) the approved procurement request,
 - b) the solicitation with all attachments,
 - c) the selected bidder's complete bid submission,
 - d) the signed written bid tabulation and responsiveness review,
 - e) the departmental selection approval,
 - f) the award letter, and
 - g) all rejection letters.

Law Department will prepare the contract, obtain needed documents, fees, approvals, and signatures, and distribute executed originals to the Purchasing Bureau and the selected bidder. Law Department will retain an executed original, together with the complete procurement package, in permanent Law Department records. The Purchasing Bureau will enter the received contract into the City's procurement system and render it available for use.

3) Use: To obtain needed movable property and services, City Departments will search the City financial purchasing system ("BuySpeed") for procured or otherwise available movable property and services. They will enter and approve a requisition to complete the transaction and obtain the needed property or service.

F. Additional Provisions:

- City Code Section 2-8 provides that the City may not enter into or make payments under a
 contract with any person, corporation, or entity delinquent in City taxes. Solicitations for
 movables and non-professional services procurements by written contract will state the
 restriction. The Department of Finance will not complete contracts with vendors or
 providers without tax clearances.
- 2) All City movables and non-professional services solicitations will bear a discrete number assigned by the Purchasing Bureau.

- 3) Procuring officials will not divide movables or services procurements to influence competition, advertising, or contracting requirements.
- 4) The maximum sum payable under procurements obtained by informal means is \$19,999.99. The City will not use procurements obtained by informal means beyond the maximum sum payable. For example, a services contract projected to cost less than \$20,000 and obtained by telephone quotes is not available for use as a contract procured by formal bid process.
- 5) Grants: Except that he/she may not waive Charter competition requirements, the Finance Director may approve departures from the procedures described in this policy memorandum to accommodate grant requirements.
- 6) Emergencies: The Director of Finance may delegate needed movable and services procurement authority to City Departments during declared emergencies. City Code articles 70-428 and 70-429 and Chief Administrative Officer Policy Memorandum 42(R) direct procurement practice for discrete emergencies.
- 7) Exceptions: The following operating expenses do not require procurement. City departments will pay such expenses by request for payment authorization or voucher, regardless of amount.

Claims Refunds Travel

Petty Cash Reimbursements

Advertisements

Interagency Transfers

Newspaper Advertisements

Licenses and Permits

Dues and Subscriptions

Radio/Television Announcements

Postage Court Costs Newspaper Utilities

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